

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KIMBERLY FOGLIA,

Plaintiff

USDC Case No. _____
Hon. _____

V

BEAUMONT HEALTH,

Defendant.

Wayne County Circuit Court
Lower Court No.: 19-006707-CD
Hon. David A. Groner

BEAUMONT HEALTH'S NOTICE OF AND PETITION FOR REMOVAL

TO: United States District Court
Eastern District of Michigan
Southern Division

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§ 1331, 1367, 1441, and 1446, Defendant BEAUMONT HEALTH (“Defendant” or “Beaumont”), by its undersigned counsel, Butzel Long, a professional corporation, hereby gives notice of removal of this action from the 3rd Circuit Court for the County of Wayne, State of Michigan, in which it is now pending with Case No. 19-006707-CD, to the United States District Court for the Eastern District of Michigan. Defendant states as follows in support of its Petition for Removal:

1. State Court Action. On or about May 7, 2019, Plaintiff Kimberly Foglia (“Plaintiff”) commenced an action against Beaumont Health, entitled *Kimberly*

Foglia v. Beaumont Health, Case No. 19-006707-CD, (“the Lawsuit”), in the 3rd Circuit Court for the County of Wayne, State of Michigan, the Honorable David A. Groner presiding. Defendant Beaumont Health received a copy of Plaintiff’s Summons, which is attached hereto as **Exhibit A**, and Plaintiff’s Complaint and Jury Trial Request, which is attached hereto as **Exhibit B**, via personal service on May 17, 2019.

2. Federal Question Jurisdiction. This lawsuit involves a controversy in which this honorable Court has original jurisdiction pursuant to 28 U.S.C. § 1331 because the action arises under the Constitution, laws or treaties of the United States. Specifically, this Court has federal question jurisdiction over Plaintiff’s claims against Defendant in Count II of the Complaint for alleged violation of the Americans with Disabilities Act, 42 U.S.C. § 12101, *et seq.* Therefore, this action may be removed to this Court by Defendant pursuant to 28 U.S.C. § 1441.

3. Supplemental Jurisdiction. Plaintiff’s Complaint further asserts state law causes of action in Count I for alleged violation of Michigan’s Persons with Disabilities Civil Rights Act, MCL § 37.1101, *et seq.*, which this Court has supplemental jurisdiction over pursuant to 28 U.S.C. § 1337, because the state law claims are so closely related to the 42 U.S.C. § 12101 ADA claim in Count II that they form part of the same case or controversy. All of Plaintiff’s claims against Defendant in the Complaint derive from a common nucleus of operative facts

relating to allegations of hostile work environment stemming from alleged disability discrimination during Plaintiff's employment.

4. State Court Documents Attached. The attached Complaint, together with the Summons, constitutes all process, pleadings and orders served on Defendant to date. *See* Wayne County Circuit Court Register of Actions Sheet attached hereto as **Exhibit C**.

5. Notice of Removal. As this Notice of Removal is being filed within thirty (30) days of Defendant's receipt of the Complaint, this removal is timely under 28 U. S .C. § 1446(b).

6. Notice to Plaintiff in State Court. Written notice of the filing of this Notice of Removal will be promptly served on Plaintiff, through its counsel of record, and a true and correct copy of this Notice of Removal will be filed with the Clerk of the Circuit Court of Wayne County, State of Michigan, as soon as practicable, in accordance with 28 U.S.C. § 1446(d). *See* Defendant Beaumont Health's Notice of Filing Notice of Removal attached hereto as **Exhibit D**.

7. Removal. This lawsuit is removable to this Court pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, which provide for removal of any civil action in which the United States District Court has original jurisdiction. Defendant respectfully gives notice that this action is hereby removed from the 3rd Circuit Court for the County of Wayne to the United States District Court for the Eastern District of Michigan.

WHEREFORE, Defendant Beaumont Health removes this action from the Circuit Court for the County of Wayne, State of Michigan, to the United States District Court for the Eastern District of Michigan.

Respectfully submitted,

BUTZEL LONG,
a professional corporation

By: /s/ Regan K. Dahle

Regan K. Dahle (P53975)

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Dated: June 7, 2019

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CERTIFICATE OF SERVICE

I hereby certify that on June 7, 2019, I electronically filed the foregoing document with the Clerk of the Court using the ECF system, and a copy of same was mailed by United States Postal Service to:

Nanette L. Cortese, Esq.
THE CORTESE LAW FIRM, PLC
8071 Main St, Suite B
Dexter, Michigan 48130

Respectfully submitted,

By: /s/ Regan K. Dahle
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